IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Chapter VIII, Rule 32(2) (b)
Description of case

Defective Special Appeal No. 8 of 2002

Date of decision: 1st August, 2006

A.F.R. (Approved for Reporting)

~~Not Approved for Reporting~~

Date 1.8.2006. Initials of Judge

Note: Bench Reader will attach this at the top of first page of the judgment when it is put up before the Judge for signature.

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Defective Special Appeal No. 8 of 2002

1. Subhash Chandra Pant,
   S/o Sri S.K. Pant,
   R/o Gopal Sadan, Mallital, Nainital,
   Uttaranchal.
2. Mahesh Gurani S/o Sri G.D. Gurani,
   R/o New Gopala Sadan,
   5 Mallital, District Nainital,
   Uttaranchal.
3. Lalit Mohan Pandey S/o Sri Goverdhan Pandey,
   Community Lane, Mallital,
   District Nainital, Uttaranchal. ……. Appellants

Versus

1. Nagar Palika Parishad,
   Nainital through its President.
2. Executive Officer,
   Nagar Palika Parishad,
   Nainital, Uttaranchal.
3. Hem Chand Pant S/o Sri Khyali Dutt Pant,
   Accounts Section,
   Nagar Palika Parishad,
   Nainital, Uttaranchal. ……. Respondents

Sri Alok Singh, Senior Advocate with Sri Devesh Bishnoi, Advocate for the appellants.
Sri D.S. Patni, Advocate for the respondents 1 and 2.
Sri Anil Singh Rana, Advocate on behalf of Sri Sharad Sharma, Advocate for respondent no. 3.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble J.C.S. Rawat, J.

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RAJEEV GUPTA, C. J. (Oral)

Sri Alok Singh, Senior Advocate with Sri Devesh Bishnoi, Advocate for the appellants.

Sri D.S. Patni, Advocate for the respondents 1 and 2.

Sri Anil Singh Rana, Advocate on behalf of Sri Sharad Sharma, Advocate for respondent no. 3.

They are heard on the Delay Condonation Application.

2. On due consideration of the submissions of the learned counsel for the parties and the grounds taken in the Delay Condonation Application, we are satisfied that the appellants have succeeded in showing sufficient cause for the delay in filing the appeal.

3. Therefore, the Delay Condonation Application in allowed and the delay in filing the appeal is hereby condoned.

4. The learned counsel for the parties are heard on admission.

5. The appellants have filed this Special Appeal against the impugned orde dated 12.06.2001 passed by the learned Single Judge in the Writ Petition No. 1945 (S/S) of 2001 whereby the petitioners' writ petition was dismissed.

6. From the impugned order, we gather that by this common order two writ petitions –Writ Petition No. 1921 (S/S) of 2001 (Smt. Deoki Kunwar Vs. State of U.P. and others) and Writ Petition No. 1945 (S/S) of 2001 (Subhash Chandra Pant and others Vs. Nagar Palika Parishad and others) were decided.

7. The petitioner in Writ Petition No. 1921 of 2001 challenged the impugned order dated 12.06.2001 in Special Appeal No. 56 of 2004 which was dismissed vide order dated 11.10.2004. The dismissal of Special Appeal No. 56 of 2004 was affirmed by the Apex Court vide order dated 07.02.2005 passed in Special Leave to Appeal (Civil) No. 2095 of 2005 by dismissing the Special Leave Petition.

8. Sri Alok Singh, the learned Senior Counsel for the appellants tried to distinguish the appellants' case from the case of the petitioner in the other writ petition on the ground that the petitioners were regularly appointed whereas the other petitioners Deoki Kunwar was a daily wager.

9. Be that as it may, the fact remains that the subject matter of challenge in both the writ petitions was the appointment of third

respondent Hem Chand Pant and the same got approval vide impugned order dated 12.06.2001 passed by the learned Single Judge.

10. As the impugned order dated 12.06.2001 apporving the appointment of third respondent –Hem Chand Pant, either by way of promotion or as a direct appointment, has been was affirmed by a Division Bench of this Court in Special Appeal No. 56 of 2004 and further by the Apex Court by dismissing the Special Leave Petition vide order dated 07.02.2005, we do not find any scope for interference in this Special Appeal in regard to the appointment of third respondent Hem Chand Pant.

11. The Special Appeal, therefore, is liable to be dismissed and is hereby dismissed summarily.

12. With the above order, Interim Relief Application No. 1556 of 2002 also stands disposed of.

(J.C.S. Rawat, J.) **(Rajeev Gupta, C. J.)**
01.08.2006 01.08.2006

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